IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE EIGHTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION No: 9213 of 1999

Between:

T.V.L. Kantha Rao S/o. Venkateswarlu
R/o. Plot No.838, Vivekananda Nagar,
Kukkatpally, Hyderabad.

..... PETITIONER

AND

1 Assistant General Manager (DM) & Appellate Authority, Andhra Bank, Head Office, Hyderabad.
2 Chief Manager, & Disciplinary Authority,
Andhra Bank, Zonal Office, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, Order or Direction, more particularly one in the nature of Writ of Certiorari Calling for the records relating to Lr.No.666/20/V/18(A)/657, dt.2-12-98 issued by the Asst. General Manager (DM) and Appellate Authority Concurring with the findings of the Enquiry Officer and the decision of the Disciplinary Authority and confirming the punishment of dismissal from service of Andhra Bank and upholding the decision of the Disciplinary Authority with regard to the treatment of Suspension Period and quash the same by holding that the impugned proceedings are illegal, unjust, arbitrary, without jurisdiction, bad in the eye of law, Subversive of Articles 14 and 16 of the Constitution and in violation of the Principles of Natural Justice and Consequently direct the Respondents to reinstate the Petitioner with all back wages and pass such other Order or orders as this Hon'ble Court deems fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.GANDURI NAGESHWAR RAO

Counsel for the Respondents: MR.NUTY RAM MOHAN RAO

The Court made the following:

ORAL ORDER:-

This writ petition is filed seeking a Certiorari to call for records relating to the proceedings Lr.No.666/20/V/18(A)/657, dated 02.12.1998, issued by the appellate authority - Assistant General Manager concurring with the decision of the disciplinary authority and confirming the punishment of dismissal from service and quash the same as arbitrary and illegal and consequently, direct the respondents to reinstate the petitioner into service with all benefits.

It is the case of the petitioner that he joined the service of the Andhra Bank as Clerk-cum-Cashier with effect from 20.06.1998. In the year 1992 he was transferred to H.M.T. branch, Hyderabad and he has been discharging his duties without any blemish. While so, the petitioner was placed under suspension with effect from 06.02.1995, pending enquiry into certain allegations made against him. A charge

sheet was issued and petitioner submitted his explanation and thereafter enquiry was ordered. The Enquiry Officer, without there being any cogent and reliable evidence, held the petitioner guilty of the charges. The disciplinary authority, without properly appreciating the evidence available on record, came to the conclusion that the petitioner was guilty of the charges and finally removed him from the service of the Bank. Aggrieved by the same, the petitioner preferred an appeal before the competent authority and the appellate authority has also dismissed the appeal. Hence, this writ petition.

A detailed counter-affidavit has been filed by the respondents denying the allegations made by the petitioner.

Learned counsel for the petitioner strenuously contended that the sum and substance of the charge is only that the cheques were purchased by the Bank at the request of the petitioner and by abuse of his official position as Clerk, working in the clearing section, on certain occasions, managed to detain the cheques at the branch without ensuring their presentation in the Clearing House and when the cheques were returned unpaid, he had not taken steps as are required to be taken as per Banking Rules and in some other cases he had managed to get the amounts of the cheques realized through the respective accounts before the cheques are actually cleared at the drawee bank. Thus, the petitioner has manipulated the books of the bank so as to conceal his acts of unauthorized transactions for his personal gain and thus misappropriated the bank's funds to the tune of Rs.4,20,000/-.

According to the learned counsel for the petitioner, except for causing some delay in presenting the cheques to the appropriate drawee banks, all the amounts were properly encashed by the bank though there was some delay. Therefore, it cannot be said to be misappropriation of the bank's amounts. Further, since there was no loss caused to the bank, the petitioner could not have been dismissed from the service of the bank, which is a harsh punishment and disproportionate to that of the charges framed. The disciplinary authority as well as the appellate authority have not properly considered the evidence available on record and also as to the imposition and quantum of punishment.

Learned counsel for the respondents strenuously contended that the petitioner, who handles the monies of the bank, only to have a wrongful gain for himself and his wife has committed a grave and serious misconduct and he repeated the same for more than 15 times, and therefore, even if the amounts were reimbursed at a later point of time or even before the charge sheet was issued, does not deserve any lenience to be shown and no interference can be made into the punishment imposed under Article 226 of Constitution of India.

I have given my earnest consideration to the respectful submissions made by the learned counsel on either side and perused the impugned proceedings and other material available on record.

At the outset, I am of the opinion that the petitioner has not made out any ground warranting interference of this court under Article 226 of Constitution of India. During the period from April 1994 to November 1994, as many as 15 times the petitioner has repeated the same misconduct of delaying tactics as to the presentation of the cheques submitted by his wife, who was also an account holder in the bank and he has diverted or detained them for being presented to the proper bank and thus caused delay in encashing the amount. In substance, the cheques submitted by the wife of the petitioner were taken out from the routine procedure and as and when the money was deposited into the account, the cheques were cleared. This happened more than 10 times. Hence, it cannot be viewed leniently. After all, the monies of the bank are public monies, which cannot be permitted to be dealt with casually. In this case the petitioner had converted the bank business into his own private business. Therefore, neither the findings of the disciplinary authority can be found to be perverse nor the punishment imposed is said to be disproportionate to that of the misconduct conducted alleged. The misconduct is a matter of record and no further evidence was necessary. However, a detailed enquiry was conducted in the matter and after affording an opportunity to the petitioner to defend himself fully, the enquiry officer submitted a report, which was accepted by the disciplinary authority and confirmed by the appellate authority. Therefore, the punishment of dismissal from service of the bank imposed on petitioner cannot be said to be either unwarranted or arbitrary.

The writ petition is devoid of merit and does not call for interference of this Court under Article 226 of Constitution of India and accordingly the same is dismissed. No order as to costs.

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18.07.2005

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To

1 The Assistant General Manager (DM) & Appellate Authority, Andhra Bank, Head Office, Hyderabad.
2 The Chief Manager, & Disciplinary Authority,
Andhra Bank, Zonal Office, Hyderabad.

3 2 CD copies

4 1 CC to MR.FRANCIS